

## **Charter Commission meeting minutes**

**August 29, 2017**

**7:00 – 9:00pm**

**Police Station Community Room**

Attending: Rhodes, Weiss, Stein, Churchill, Hanneke, Churchill, Fricke, Rueschemeyer, Gage  
Collins Center: Ward and Stepasiuk

### **Agenda**

1. Call to order, approve agenda, approve minutes
2. Public comment
3. Review feedback on preliminary Charter
4. Plan for August 31 Public Hearing
5. Other planning: future meetings, final report, etc.
6. Topics not reasonably anticipated by the Chair 48 hours prior to the meeting
7. Adjourn

Meeting called to order at ca. 7:05.

1. Approved minutes from a previous meeting, delayed approval of others
2. No public in attendance at this point, no public comments
3. Discussion of Attorney General's comments on preliminary charter

#### **A. 7-2 "incumbent designation" language**

Ward: conflicts with state law – obvious approach is to remove from charter.

Hanneke and Gage: changing law would be nice.

Agreed: remove language barring "candidate for re-election" on Town ballots.

#### **B: 2-3 Legislative Branch**

Both Contreas and AG concerned that providing for Town employee who serves on Town Council to return to "same position" could create confusion/conflict. If "same position" is no longer available, then what? At same time, want to prevent politically connected former Councilor from using influence to secure promotion through Council work.

Agreed: adopt Contreas' suggested language with a change from 12 to 18 months to reflect rest of the article: "This provision shall not prohibit a former city employee or city officer from resuming the same position of a city officer or city employee within 1 year of the conclusion of such service as a Council member."

Discussion of replacing "same" with "same or similar."

Weiss: "similar" is too vague.

Rueschemeyer: spell out "if same position is no longer available then..."

Hanneke: "same position or similar position at same pay grade."

Commission approves combination: "This provision shall not prohibit a former city employee or city officer from resuming the same position of a city officer or city employee within 1 year of the conclusion of such service as a Council member. If the same position is no longer available, the former Councilor may take a similar position at their former pay grade.", with all references to "city" changed to "town".

#### **C. 3-1 Executive Branch**

Obvious that Council cannot overrule state ethics and conflict of interest laws, but doesn't hurt to state it here. An indication for Council to pay attention to those specific laws. Agreed.

#### D. 6-3 Board of License Commissioners

Partly a similar statement that state law must be obeyed. Also a bit more.

Ward: Charter can allow the Council to delegate all licenses to the BLC, but the Council cannot do that delegating under a bylaw.

Churchill: do we want Council to reserve some license oversight for themselves or give all to BLC?

Hanneke/Rueschemeyer: recall that we were not ready to make a detailed list at draft time--a lot of licenses in play.

Stein: Can we just delegate them all? The goal was to streamline the work and save Council from administrative supervision.

Churchill: We can if that's what we want.

Rueschemeyer: So only two options – Council has all licenses or BLC has all?

Hanneke: AG didn't say that, but it's what Contreas thinks.

Stein: We wanted a BLC to reduce demands on Council.

Stepasiuk: So adopt language like Framingham?

Hanneke/Churchill/Weiss/Rueschemeyer: Let's delegate all the Chapter 138 and 140 licenses like the Framingham language.

Agreed.

#### E. 7-6 Candidate Statements on Town Website

Like comment C, good to point future Council to state campaign and political finance laws.

Ward: I am still concerned that we're setting up for complaints/suits from candidates about due process and equal access to town resources

Stepasiuk: Town Clerk handles similar challenges regarding fair processes and equity already.

#### 4. Discussion of Contreas' comments [sent to Commission by email].

A. p.4 definition of officer – leave as is.

B. p.7 2-1.c "to which elected" – adopt change.

C. p.7 2-2.a Should Council presidency be available to only at-large Councilors or entire Council?

Contreas favors entire Council so Councilors can choose most capable rather than from a limited number of candidates. Ward Councilors generally represent entire town rather than just their neighborhood.

Churchill: Is there something special about at-large? Comes down to whether we want the president to be best facilitator or to whether presidency represents Town in a way that is legitimized by Town-wide electorate.

Stein: Have heard from Town clerks in other towns that Ward Councilors often are parochial in their votes

Rhodes: Prefer to choose from at-large. One will be a fine facilitator.

Grabbe: Agree. Also, at-large Councilors will have fewer obligations to hold Ward meetings and keep up constituent communications and contacts.

Gage: Largely persuaded by Contreas' logic. Bigger pool of candidates is best chance of best president.

Rueschemeyer: Pretty neutral. Requirement of majority support to become president is a good check against parochialism in president.

Hanneke: Prefer all 13 to be eligible – best chance of most able administrator.

Stepasiuk: Also be aware of power of incumbency and chance that successful at-large president will be able to defend office from smaller pool of potential rivals.

Fricke: Not strong on other side. Came in with preference for successful at-large campaigner in the presidency. A reward for appealing to majority of voters and a check on presidency by the voters. Now thinking that the position is not that powerful – more of a facilitator, so bigger pool makes more sense.

Grabbe: Remember that this was a compromise. Initially proposed at-large Councilor with greatest number of votes would be president. Now we're discussing a step even farther from that voter control.

Gage: Better if every Ward's Councilor gets a chance to run.

Grabbe: Power to Ward is already unbalanced. 10 Ward Councilors can outvote the at-large Councilors

Rhodes: Agreed. Winning at-large is a higher bar and worth distinguishing.

Churchill: Are we looking primarily for a Town spokesperson or a Council facilitator? Depends on how you're viewing the position of president. 13 member body needs a skilled facilitator to function effectively.

Rhodes: There's no committee chair or board president who is not viewed as spokesperson and leader – it's what they do.

Rueschemeyer: But committee chairs don't necessarily go to member who got the most votes. The power is real, but it's not necessary to limit candidates to at-large. Worried about earlier notion of incumbent capturing the office.

Weiss: Depending on the number of candidates, at-large campaign may not be a higher bar.

Some discussion of how competitive at-large elections are likely to be.

Grabbe: A credible at-large president could always get help with facilitating.

Rhodes: None of the Councilors will be completely ineffective. Voters won't choose them.

Gage: Successful Ward candidates will have to attend to Town-wide concerns, not just own Wards.

Look at North Amherst Town Meeting representatives and their votes on North Amherst library toilets.

Proof of attention to bigger concerns than next-door.

Stein: My town clerk source (not Amherst town clerk) said votes were often parochial, but she wasn't describing campaigns or Councilors values as narrow necessarily.

Churchill: President will be Council spokesperson. Even if chosen from entire Council, still needs to win votes from across Wards. Can't be captured by a single neighborhood that doesn't respect broader interests.

Rhodes: Motion to leave as is.

Grabbe: Second

In favor: Rhodes, Grabbe, Stein

Opposed: Weiss, Hanneke, Churchill, Rueschemeyer, Fricke, Gage

Stepasiuk: So edit to "shall elect a president" without reference to at-large

Agreed

Grabbe: Handing over the Council to Ward Councilors

Rueschemeyer/Churchill: That's not really a 10 person coalition. Why would they collude rather than represent the town?

Continuing Marilyn Contreras suggestions:

2-2 C agreed by consensus

2-4 grammar clean up - approved

2-6 D-3 approved; D-4 also

2-6E approved

2-9a approved

2-9c leave as is

2-9d approve the change

2-9e approved the change  
2-10b approved

2-10c Discussion occurred about the number needed to postpone a vote, a right that could be abused by one or 2 people to slow the process down--merely to slow it down. Agreed to use the Watertown language to make it a 2 tiered process where 1 person can postpone a vote until the next regular or special meeting; at that time, if 6 vote to postpone, it must be postponed at least 5 days

2-11a change agreed

At 8:30, it was decided to try to look at only substantive changes being suggested

3-2r leave as is  
3-2u leave it

10-9 Stepasiuk and Ward will study this section and make recommendations for the next meeting.  
10-7n and o We need to make sure that after Dec 3, the Town Council could, via a bylaw, change the number of members for the PB and ZBA

9-6 Churchill wants to look at this further. What changes can be done (43b section 10 spells this out). Substantive changes will have to go to a Town wide vote. Clarifying language needed9 Stepasiuk and Ward will try to come up with language.

10-7x change accepted

Next meetings discussed (Sept 7, 14, 18, 25). Minority report must be in the Chair's hands within 48 hours of the final vote on 9/25

Discussion of Stepasiuk and Ward's time and the need to have Town Council's notes to be able to finalize the document. Rules affecting the SB tasks reported by Hanneke including the mailing of the final document to all residents.

Aug 31Ppublic hearing discussion.....What information will the commission hand out? Can there be anything beside the Preliminary Report and Charter? Rueschemeyer and Gage advocated for the minority being able to present the preliminary minority report. Members of the majority objected. It was agreed that anyone could put material on the back table, but only the Preliminary Report and Ward map would come from the Commission. Everyone agreed to the language of the intro to this report as a neutral statement. Grabbe recommended and all agreed that commission members should not speak at this meeting except to answer clarifying questions and correct misconceptions.

Submitted by:  
Tom Fricke and Gerry Weiss

Document used:

Amherst Master DRAFT Preliminary Charter 7-13-17 Collins' (Center) comments and edits  
Attorney General Opinion  
Preliminary Minority Statement